

**Employee Benefit Plan
Top-Heavy Requirements
(Worksheet Number 7 — Determination of Qualification)**

Instructions—All items must be completed unless otherwise indicated. In the absence of further instructions, a “Yes” answer generally indicates a favorable conclusion is warranted while a “No” answer indicates a problem exists. Please use the space on the worksheet to explain any “No” answer. Numbers in brackets refer to EDS paragraph numbers. See Document 7002 Explanation 7, for guidance in completing this form.

The technical principles reflected in this worksheet may be changed by future regulations or guidelines.

Name of Plan

I. Applicability of the Top-Heavy Provisions

	Plan Reference	Yes	No	N/A
a. Is the plan a collectively-bargained plan and not top-heavy?				
b. Is the plan a governmental plan as defined in section 414(d) of the Code?				
c. Is the plan a "Simple" plan that satisfies section 401(k)(11) of the Code and that allows no contributions other than those required under section 401(k)(11)?				

(If the answer to any of these questions is “yes”, disregard the remainder of this worksheet.)

II. Provisions Which, if Present, Will Satisfy the Requirements of Section 416

a. Does the plan contain a vesting schedule at least as favorable as three-year 100% vesting or six-year graded vesting? [707]				
b. Provisions applicable only to defined benefit plans:				
(i) Does the plan provide a minimum benefit for each non-key employee that consists of—				
(a) The product of the employee's average compensation from the employer for the five highest consecutive years; and [710]				
(b) The lesser of 20%, or 2% per year of service? [711]				
(ii) Does each non-key employee obtain a minimum benefit if such non-key employee has 1,000 hours of service <i>(or the equivalent)</i> during an accrual computation period—				
(a) Regardless of the non-key employee's level of compensation, [713]				
(b) Regardless of whether a non-key employee declines to make a mandatory contribution to a plan that generally requires such contributions; and [714]				
(c) Regardless of whether a non-key employee is employed on a specified date, such as the last day of the year? [715]				
(iii) Does the plan preclude the forfeiture of a minimum benefit due to the withdrawal of a mandatory contribution? [716]				
c. Provisions applicable only to defined contribution plans:				
(1) Does the plan provide for a minimum contribution <i>(i.e., allocation)</i> of not less than 3% of compensation per year, or if less than 3%, the highest rate allocated to any key employee? [718]				

II. Provisions Which, If Present, Will Satisfy the Requirements of Section 416—Continued	Plan Reference	Yes	No	N/A
(2) If the highest rate allocated to a key employee is less than 3%, does the plan include amounts contributed as a result of a salary reduction agreement when determining contributions made on behalf of key employees? [719]				
(3) Does the plan provide that each non-key employee will receive a minimum contribution if the participant has not separated from service at the end of the plan year—				
(a) Regardless of whether the non-key employee has less than 1,000 hours of service (or the equivalent):[721]				
(b) Regardless of the non-key employee's level of compensation; and [722]				
(c) Regardless of whether the non-key employee declines to make a mandatory contribution to a plan that generally requires such contributions? [723]				
(4) Does the plan preclude the forfeiture of account balances attributable to required minimum contributions if a non-key employee withdraws a mandatory contribution? [724]				
d. Is compensation to be used for purposes of determining all minimums properly defined? [760 and 761]				
e. Are the provisions described in subsections a., b. and c. or d. operative for each year of the plan regardless of whether the plan is top heavy? (If the answer is "Yes", answer g. below. If the answer is "No", proceed to part III.)				
f. If this is a defined contribution (defined benefit) plan, does the employer maintain a defined benefit (defined contribution) plan that could cover any employee covered by this plan? (If the answer is "No", do not complete the remainder of this checksheet. If the answer is "Yes", proceed to part V.)				
III. Tests for Top-Heaviness				
a. Are the following terms defined in the plan?				
(1) Determination date [731]				
(2) Valuation date [732]				
(3) Required aggregation group [733]				
(4) Permissive aggregation group [734]				
(5) Top-heavy ratio [735 and 736]				
(6) Key employee [763 and 764]				
(7) Non-key employee [739]				
b. Does the plan provide that the accrued benefits and account balances that are to be taken into account in determining top-heaviness relate to the proper determination date? [740]				
c. If the plan is a defined benefit plan, does the plan specify the actuarial assumptions used to determine the present value of accrued benefits? [741]				

III. Tests for Top Heaviness—Continued	Plan Reference	Yes	No	N/A
d. Are the actuarial assumptions identical for all defined benefit plans being tested for top heaviness? [742]				
e. Are proportional subsidies ignored when testing for top-heaviness in a defined benefit plan? [743]				
f. Are non-proportional subsidies considered when testing for top-heaviness in a defined benefit plan? [744]				
g. Does the plan provide that, for purposes of determining whether the plan is top-heavy, a participant's accrued benefit in a defined benefit plan will be determined under a uniform accrual method which applies in all defined benefit plans maintained by the employer or, where there is no such method, under the fractional rule? [745]				
IV. Employer Maintaining Multiple Plans - Coordination of Top-Heavy Minimums				
a. Does this plan provide the minimum benefit (<i>contribution</i>) if it is a defined benefit (<i>contribution</i>) plan? [746]				
b. If both defined contribution and defined benefit plans exist, does the defined benefit plan provide the defined benefit minimum or does a floor offset arrangement apply where the floor is the defined benefit minimum? [747, 748 and 749]				
c. If both defined contribution and defined benefit plans exist, is the minimum contribution comparable to the minimum benefit? [747, 748 and 749]				
d. If both defined contribution and defined benefit plans exist, is a minimum contribution of 5% of compensation provided for each non-key employee participating in both plans? [747, 748 and 749]				
V. Super Top-Heavy - Section 415(e)				
<i>(Complete only if employees who are covered under this defined benefit (defined contribution) plan could also be included in a defined contribution plan (or vice versa) of the employer.)</i>				
a. Does the plan always use a limit of 1.0 times the dollar limit? <i>(If the answer is "Yes", do not complete the remainder of this checksheet.)</i>				
b. Does a plan use a limit of 1.0 times the dollar limit if the top-heavy ratio is greater than 90%? [755]				
c. If the top-heavy ratio does not exceed 90% and the employer uses a factor of 1.25 in the denominator of the section 415 fraction is one of the following met?				
(1) Is a defined benefit minimum of 3% in lieu of the 2% described in II.c. provided, or [756, 757, 758]				
(2) For participants covered only by a defined contribution plan, is a defined contribution minimum of 4% provided, in lieu of 3% described in 11.d? or [756, 757, 758]				
(3) For participants covered by both types of plans are benefits from the defined contribution minimum comparable to a 3% defined benefit minimum, or [756, 757, 758]				
(4) Does the plan provide a floor offset where the floor is a 3% defined benefit minimum, or [756, 757, 758]				

V. Super Top-Heavy - Section 415(e)—Continued	Plan Reference	Yes	No	N/A
(5) Is a defined contribution minimum of 7-1/2% of compensation provided for any non-key employee who is covered under both a defined benefit plan and a defined contribution plan (<i>each of which is top heavy</i>) of an employer? [756, 757, 758]				

Comments